

# Notice of Allowability

Application No.

10/604,418

Examiner

Yaritza Guadalupe McCall

Applicant(s)

ROSA, ADRIANO

Art Unit

2859

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment filed February 25, 2005.
2. ☒ The allowed claim(s) is/are 1 - 56 and 59 - 72.
3. ☒ The drawings filed on 18 July 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

- |   |  |
|---|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment                               |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance   |
|   | 9. <input type="checkbox"/> Other _____.   |

## **DETAILED ACTION**

In response to Amendment filed February 25, 2005

### ***Reasons for Allowance***

1. The following is an examiner's statement of reasons for allowance:
  - a. Claims 1 - 21 are allowable over the Prior Art of Record because it fails to teach or suggest a method of making a shoe correction for the alignment of a person's foot comprising the step of maintaining the person's lower leg in the forward inclined position at the pre-selected angle, measuring the lateral angular alignment of the foot in combination with the remaining limitations of the claims.
  - b. Claims 22- 32 are allowable over the Prior Art of Record because it fails to teach or suggest a method of making a shoe correction for the alignment of a person's foot comprising the step of selecting from a database appropriate corrective components for incorporation into a shoe to correct the alignment of the person's foot in combination with the remaining limitations of the claims.

c. Claims 33 - 36 are allowable over the Prior Art of Record because it fails to teach or suggest a kit for quantifying and making a shoe correction for a misalignment of a person's foot comprising (a) a dorsiflexion template adapted to position the person's lower leg and (b) a subtalar joint inclinometer to measure the lateral angular alignment of the person's foot when the person's lower leg is inclined at the preselected angle in combination with the remaining limitations of the claims.

d. Claims 37- 56 are allowable over the Prior Art of Record because it fails to teach or suggest a corrective alignment insole assembly for making a shoe correction for the alignment of a person's foot comprising a base insole in combination with at least one of at least one supination control pad, at least one pronation control pad, or at least one arch control pad, wherein the at least one supination control pad, the at least one pronation control pad and the at least one arch control pad are selected based upon a lateral angular alignment measurement of the person's foot in combination with the remaining limitations of the claims.

e. Claim 59 is allowable over the Prior Art of Record because it fails to teach or suggest a subtalar joint inclinometer for measuring the lateral angular alignment of a person's foot when the person is in a standing position, comprising a calcaneal bisection gauge for inscribing a reference line on the heel of the person aligned with the person's Achilles tendon when the person is standing in combination with the remaining limitations of the claims.

f. Claims 60 - 68 are allowable over the Prior Art of Record because it fails to teach or suggest a database for selecting at least one corrective alignment insole component for making a shoe correction for a misalignment of a person's foot based upon a measurement of a lateral angular alignment of a person's foot comprising a plurality of pre-selected lateral angular alignment values correlated to the at least one corrective alignment insole component so that the at least one corrective alignment insole component can be selected from the database based upon the lateral angular alignment measurement in combination with the remaining limitations of the claims.

g. Claims 69 – 72 are allowable over the Prior Art of Record because it fails to teach or suggest a subtalar joint inclinometer for measuring the lateral angular alignment of a person's foot when the person is in a standing position, comprising a protractor scale indicia on one of the base second portion and the heel alignment member and a reference line indicia on the other of the base second portion and the heel alignment member, wherein the reference line indicia is aligned with a zero position on the protractor scale indicia when the person's heel has a zero angular alignment and is adapted to indicate on the protractor scale indicia the degree of angular deviation of the person's foot from zero angular alignment in combination with the remaining limitations of the claims.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### *Conclusion*

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yaritza Guadalupe whose telephone number is (571)272 -2244. The examiner can normally be reached on 9:00 AM - 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F.F. Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Yaritza Guadalupe McCall  
Patent Examiner  
Art Unit 2859  
May 12, 2005



**CHRISTOPHER W. FULTON**  
**PRIMARY EXAMINER**